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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHANE R. GREEN, EDIN SARACEIV,
TARIK KURSPAHC, and MICHAEL D. SYLVESTER

Appeal 2009-011310
Application 09/876,111
Technology Center 2400

Decided: April 30, 2010

Before ROBERT E. NAPPI, ELEN MANTIS MERCADER, and
BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 6(b) of the final rejection of claims 21 through 33, 35 through 39 and 41.

We affirm the Examiner's rejections of these claims.

INVENTION

The invention is directed towards a locator service that allows a user to initiate location queries from a browser to obtain location information. See paragraphs 0007-0009 of Appellants' Specification. Claim 21 is representative of the invention and reproduced below:

21. A method for providing information about points of interest, the method comprising:

 assigning a unique location code to each of a plurality of points of interest, wherein each location code is comprised of a plurality of sub-strings of numbers, wherein each sub-string represents specific attributes of a represented point of interest,

 wherein a first of said sub-strings of which a location code is comprised indicates one of a plurality of geographic areas,

 wherein a second of said sub-strings of which a location code is comprised indicates one of a plurality of categories,

 wherein a third of said sub-strings of which a location code is comprised indicates one of a plurality of sub-categories of one of said plurality of categories,

 wherein a fourth of said sub-strings of which a location code is comprised uniquely indicates a point of interest of a type corresponding to one of the plurality of sub-categories of one of the plurality of categories located in one of the plurality of geographic areas;

 entering a single location code into a device connected to a network, wherein the step of entering further comprises:

 entering in sequence a number code corresponding to each of the sub-strings of which the location code is comprised, and

 entering a delineating character following entry of the number code corresponding to each of said sub-strings;

receiving the location code at a locator server connected to the network; and
using a locator database associated with the location server to retrieve information about the point of interest associated with the location code entered into the device.

REFERENCES

Hancock US 6,295,502 B1 Sep. 25, 2001

REJECTIONS AT ISSUE

Claims 21 through 27, 29 through 33, 35, 36, 38, 39, and 41 stand rejected under 35 U.S.C. § 102 (e) as anticipated by Hancock. The Examiner's rejection is on pages 2 through 5 of the Answer.

Claims 28 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hancock in view of Official Notice. The Examiner's rejection is on pages 5 and 6 of the Answer.

ISSUES

Rejection under 35 U.S.C. § 102 (e) as anticipated by Hancock.

Appellants argue on pages 9 through 12 of the Brief that the Examiner's rejection of claims 21 through 25, 29, 30, 32, 33, 35, 36, 38, 39 and 41 under 35 U.S.C. § 102 (e) is in error. Appellants assert that the claimed invention recites use of location codes comprised of sub-strings that indicate a category, sub-category and unique indicator or a point of interest. Appeal Brief, 9. Appellants argue that Hancock teaches two systems for specifying locations: the Universal Location Address ULA and the Proprietary Location Address (PLA). Appellants argue that in the ULA all of the sub-strings of data indicate geographic areas and not categories as

claimed. Appeal Brief 10. Further, Appellants argue that contrary to the Examiner's reasoning the sub-strings in the PLA do not identify a category and sub-category as claimed. Appeal Brief 11, Reply Brief 4.

With respect to claims 26 and 31 Appellants argue that these claims additionally recite use of a fifth sub-string which indicates a specific travel club approval, which the Examiner has not shown is taught by Hancock. Appeal Brief 12, Reply Brief 4.

With respect to claim 27 Appellants argue that claim 27 additionally recite use of fifth sub-string which indicates an acceptance of payment, which the Examiner has not shown is taught by Hancock. Appeal Brief 13.

Thus, Appellants' contentions present us with the following issues:

a) With respect to claims 21 through 25, 29, 30, 32, 33, 35, 36, 38, 39 and 41 did the Examiner err in finding that the sub-strings in Hancock's location addresses meet the sub-strings as recited in representative claim 21?

b) With respect to claims 26 and 31 did the Examiner err in finding that Hancock discloses a fifth sub-string as recited in claim 26?

c) With respect to claim 27 did the Examiner err in finding that Hancock discloses a fifth sub-string as recited in claim 27?

Rejection of claims 28 and 37 under 35 U.S.C. § 103 (a) as unpatentable over Hancock.

Appellants argue on page 13 of the Appeal Brief that the official notice does not overcome the deficiencies described with respect to claim 21 and 35. Thus, Appellants' contentions with respect to the Examiner's rejection of claims 28 and 37 under 35 U.S.C. § 103 (a), present us the same issues as identified with respect to claims 21 and 35.

PRINCIPLES OF LAW

The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and our recent final decision in *Ex parte Curry*, 2005-0509 (BPAI 2005), 84 USPQ2d 1272 (Affirmed, Rule 36, Fed. Cir., slip op. 06-1003, June 2006).

FINDINGS OF FACT

1. Hancock teaches a system for providing services over the internet, to users of mobile devices based upon location. Abstract.
2. Hancock's system makes use of locational addresses that allow points of interest to be uniquely identified. There are two types of locational addresses, Universal Locational Address (ULA) and Proprietary Locational Address (PLA). Col. 5, ll. 53-61.
3. The locational addresses contain several different sub-strings. Some contain 4 sub-strings, e.g. CTY2-11-17-18 and some contain 5 sub-strings e.g. CTY2-11-17-18-S101. These codes can represent location information such as city or district, and more specific information such as suite floor locker etc, and the sub-strings can include a unique identifier (e.g. S101 in the above code, identifies suite 101). Col. 6, ll. 27-30, col. 7, ll. 23-65.

4. With the PLA one of the sub-strings also can identify a unique identifier for example the “MAC2” in the code “US.CA.NWB.MAC2” identifies a specific restaurant, MacDonald’s. Col. 20. ll. 7-15.

ANALYSIS

Rejection under 35 U.S.C. § 102(e).

Claims 21 through 25, 29, 30, 32, 33, 35, 36, 38, 39 and 41

Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claims 21 through 25, 29, 30, 32, 33, 35, 36, 38, 39 and 41 under 35 U.S.C. § 102(e). Appellants’ arguments group these claims together. Accordingly, we select claim 21 as representative. The Examiner has found that Hancock teaches assigning a unique location code to points of interest where each sub-string represents specific attributes of the point of interest. Answer 3. The Examiner has found that these location codes include sub-strings that identify geographic areas, categories, subcategories and unique identifier. Answer 3. Further, the Examiner has stated that in the code US.CA.NWB.MAC2 the term “CA” is a category, and “NWB” is a subcategory as the claims do not narrow the definition of categories and subcategories to preclude such an interpretation. Answer 6-7.

We concur with the Examiner’s findings and claim interpretation. Claim 21 recites assigning unique location code to a plurality of points of interest, entering this location code into a device by entering each of the sub-strings, receiving the code at a locator server and using a database to retrieve information about the point of interest associated with the location code entered into the device. The evidence supports the Examiner’s findings that

Hancock teaches these features, and we adopt the Examiner's findings directed to these features of Hancock. *See also* Facts 1-4.

Claim 21 also recites that the sub-strings of the code describe different types of data, geographic area, categories, subcategories, and unique identifiers. We note that claim 21 does not define the terms categories and subcategories. As such we do not consider the Examiner's interpretation to be unreasonable.

Further, we note that the claim does not recite any functionality associated with what the sub-strings represent, i.e. the function of the unique locator is to find and retrieve information about the point of interest; however, there is no function associated with the description of the individual sub-strings. Thus, we consider the description of what type of data each of the sub-strings represents to be nothing more than non-functional descriptive material. As such, the description of what the sub-strings represents will not define the invention over the prior art, *see In re Ngai*. Accordingly, Appellants' arguments have not persuaded us that the Examiner erred in finding that the sub-strings in Hancock's location addresses meet the sub-strings as recited in representative claim 21.

Claims 26 and 31

Appellants' arguments have not persuaded us that the Examiner erred in finding that Hancock discloses a fifth sub-string as recited in claim 26. Claim 26 depends upon claim 21 and recites that the location code includes a fifth sub-string which indicates a specific travel club approval. As with the limitations of claim 21 there is no function associated with the description of the fifth sub-string. Hancock does disclose that the unique location code can

include a fifth sub-string. Fact 3 Col. 7, l. 30. Thus, we consider the description of what type of data each of the sub-strings represents to be nothing more than non-functional descriptive material. As such, the description of what the sub-strings represents will not define the invention over the prior art, *see In re Ngai*. Accordingly, Appellants' arguments have not persuaded us that the Examiner erred in finding that Hancock teaches the fifth sub-strings as recited in representative claim 26.

Claim 27

Appellants' arguments have not persuaded us that the Examiner erred in finding that Hancock discloses a fifth sub-string as recited in claim 27. Claim 27 depends upon claim 21 and recites that the location code includes a fifth sub-string which indicates acceptance of a particular form of payment. As with the limitations of claims 21 and 26 we consider the description of what the data in each of the sub-strings represents to be nothing more than non-functional descriptive material. Accordingly, Appellants' arguments have not persuaded us that the Examiner erred in finding that Hancock teaches the fifth sub-strings as recited in claim 27.

Rejection under 35 U.S.C. § 103 (a) unpatentable over Hancock.

Claims 28 and 37

As discussed above, Appellants' arguments directed to the rejection of claims 28 and 37 present us the same issues as identified with respect to claims 21 and 35. As discussed above, Appellants' arguments have not persuaded us of error in the rejection of claims 21 and 35.

SUMMARY

Appellants' arguments have not persuaded us of error in the Examiner's rejections. Accordingly, we sustain the Examiner's rejection of claims 21 through 27, 29 through 33, 35, 36, and 38, 39, and 41 under 35 U.S.C. § 102 (e) as anticipated by Hancock and the Examiner's rejection of claims 28 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Hancock in view of Official Notice.

ORDER

The decision of the Examiner to reject claims 21 through 33, 35 through 39 and 41 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2009-011310
Application 09/876,111

AFFIRMED

ELD

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